

C/A 2013-CP-21-95

10 OF 10

Dec

EX-3

THE Honorable Connie R. Sherain
12th Judicial Circuit Court Clerk
180 N. Ivy St MSC-E
(Rm B11)

Dec 20, 2013

Florence SC 29501

(Robert Graham 178039 v. State of SC)
RE: The Hon William H. Seals, Jr
presiding judge, 12th Judicial
Circuit

PO Box 143
Marion SC 29571

(Certificate of
Service front and
back on pg

2013 DEC 23 11:40
CONNIE R. SHERAIN
CLERK
12TH JUDICIAL CIRCUIT
FLORENCE, SC

FILED

#1
R. L. Jr.

Dear Clerk Sherain:
Enclosed you will find two (2) copies
of applicant's notice and motion before
this court for a Rule 59(e) altering
or amending with regards to Judge
Seals final order of dismissal.
Please file the original. and of course
return my copy to me. Please note
that I have served Hon SEAL a
copy of the address provided
above by attorney Joshua L. Thomas.

cc: Hon William H. Seals Jr
ass / atty Joshua L. Thomas (178039)
F / Robert Graham Jr

The Honorable
William H. Seals, Jr
Presiding Judge Twelfth
Judicial Circuit
P.O. Box 143
Marion, SC 29571

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2013 DEC 23 AM 11:40
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CONNIE R. B. SHERAIN
CLERK
FLORENCE COUNTY, SC

RE: Robert T. Graham, Jr (#178039)
v. State of South Carolina

2013-CP-21-1195

SCA CP Rule
59(c)

Dear Hon Seals: see (SCA CR 201).

Enclosed please find applicant's Notice and Motion for the issues, and assertions, arguments, and facts to be ruled upon, by findings of... facts, and conclusions of law, with regards to each ground, to include the amendment pursuant to Podgett v. State 374 S.C.

22, 484 S.E.2d 101 (1997); emphasis added pursuant to Pruitt v. State, 310 S.C. 254 423, SE2d 127 (1992).

cc: Connie R.B. Sherain
12th Judicial Clerk
for Filing

Joshua L. Thomas Esquire
C.A.A.V. General

I remain (178039)
Robert T. Graham Jr.
Pro-se Plaintiff

The Honorable

William H. Seals, Jr

20F 10

Presiding Judge, Twelfth

Judicial Circuit

P.O. Box 143

Marion, SC 29571

(Case No. 2013-CP-21-1195)

Robert Graham, Jr (170037)

applicant,

V. State of South Carolina

Respondent

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FLORENCE COUNTY, SC

3
#10097

A. Right to appeal

Notice and motion
for Rule 59(e)
after final order.

An issue not ruled on by the per judge in the entirety on this per application, or the recognized amendment under Austine v. State pursuant to Austine v. State 305 S.C. 453, 409 S.E.2d 305 (1991) [extended] in Wilson v. State 348 SC 215, 559 S.E.2d 581 (2002) Supreme Court, will not be properly preserved for the record on appeal, and would be prejudicial to applicant. Emphasis

The Honorable

William H. SEALS, JR

Presiding Judge Twelfth

Judicial circuit

P.O. Box 143

Marion SC 29571

OFFICE

2013 DEC 23

COMBIE DEPT. OF CORRECTIONS
FLORENCE COUNTY, SCFILED
MAR 11:40

(Case No. 2013-CP-21-1195)

S.C. Code Ann 17-27-80 (17-27-90) 17-27-100
Annotated.

It has long since been a standard of the practice of law before this court, and the united states constitution, to encompass south carolinian constitution, that every defendant to include the applicant. Has a guaranteed 14th amendment right to have had all of the [now raised] issues before this court raised, and ruled upon and properly adjudicated on each merit in his [original] [per] and [Supplemental] amended complaint. Thus, state in corrected hindrances caused the statute of limitation doctrine the state alludes to in its return to dismiss. applicant did not [knowingly] and willingly [waive] his rights to have all his issue preserved for review and appeal [in his claims] from per denial.

K. G. # 4

The Honorable

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William H. SEALS, Jr

Presiding Judge Twelfth

Judicial Circuit

P.O. Box 143

Marion SC 29571

(Case No. 2013-CP-21-1195)

C. Belated appeals, Wilson, Odom,

There since in applicants original per and supplemental complaint. Both counsels of record [failed] gravely to [timely] and to [adequately] raise all issues relevant to the applicant obtaining his one (1) full-bite at the apple during that per and appeal process. Thus, attorney Joshua L. Thomas has ask this Court to ~~commit~~ commit fraud by asserting that applicant is challenging and attacking the validity of his conviction and sentence, when clearly the two (2) objections in applicant's conditional or response and the amended motion under Austin prima facie conveys applicants assertions, argues, pleadings and affidavits in support. proffers applicant is [only] attacking, the final order of dismissal prepared by attorney Joshua L. Thomas

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CLERK
FLORENCE COUNTY

1c. b. Jr. #5

And presented to you for signing violates the standards of integrity, decency, and ethical boundaries, where attorney Joshua L. Thomas (order) illustrates that the applicant objected two (2) times to conditional order not becoming final. He then mentioned at least applicant raises six (6) allegations for why the conditional order should not become final. but! If doesn't include the claims in the order in which he expected you to sign. He must think that you are just going to sign the final order without reading, and viewing all applicants law and facts in support of evidentiary hearing and appointment of counsel to represent him pursuant to applicants right under Odom, Austine, Wilson, and s. of Rule 6-9 applicants right to counsel. attorney Joshua L. Thomas is well aware as an officer of the court and member of the bar, that there is no [statute of limitations] that applies to Austine, Odom, extended in Wilson 348 sc 215, 559 seed 581 (2002) However, he inadvertently leaves out the crux of applicants claims in this regards in both conditional and final order. He makes no mention of them

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CONFERENCE
CLERK
FEDERAL COURT
DISTRICT OF COLUMBIA

consequently, to any of applicants [Foundational] ^{7 of 10}
 claims, in his Sept 20, 2013, PM 2:13 Filed
 objection to conditional and final order of
 dismissal. Surely, IF he had only remotely,
 gazed at [any] of the claims and unaudited
 claims, not properly preserved, raised or ruled
 upon, by counsel not [timely] adequately . . .
 [preserving] them at first per and supplemental
 original order. He would then discover applicant
 is not attacking his conviction or sentence.
 but moreover, the states procedural process
 pursuant to S.C Code 17-27-80, 17-27-90-
 17-27-100, which caused applicants now raised
 claims not to be proper for briefing on appellate
 review, because of inadequate counsel. ^{FILED}
 question, and now, newly ruled upon ^{DEC 23 11:11 AM}
 does not allow the state to penalize applicant
 For state created expiration for Filing per.
 The remedy, the the state Supreme court
 established in Wilson, was to [correct] the unjust
 proceedings and defects under per rules, assistant
 attorney Joshua L. Thomas ~~is~~ an officer
 of the court is to have you sign a final
 order of dismissal misrepresenting the law

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and facts, and to put Rule according to findings of all facts, and conclusions of all law in support of the first per Original application.

See pgs 1 of 1, 1 of 2 and 1 of 3 to encompass 1 of 4 in appropriate 2013 Sept 30 pm 2:13 objection to conditional and final order of dismissal. Hence, the court will conclude application cannot be legally & dismissed as successive, untimely, and for failing to state a claim upon which relief can be granted.

Standard of review on appeal

The Supreme court will not uphold per dismissal when not supported by probative evidence, because counsel's on per and appeal failed to timely & adequately raise the new claims. Applicant never got a full bite of the apple and never had a per. App'n. procedure for review in this court are the same as for related appeals or direct appeals. See SCACR 227(g) the Supreme court has determined statute of limitations does not apply per application, Adam.

P. Dyer # 20

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CONNIE REEL-SHEARN
CCCP & GS-14, SC
FLORENCE COUNTY, SC

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Finally, All issue must be ruled upon by the per Judge in this instant matter. or will not be considered preserved for review by the Supreme Court. Prunoff v. State, 310 S.C. 254, 423, 522 127 (1992) Therefore, respectfully, IF the court order of denial is final. and no evidentiary hearing will be granted. applicant according to the afore mention request by motion and order. to alter or amend pursuant to SCRP 59(c)

R. G. J. #10

because the attorney general's office and this court has refused to appoint adequate counsel to assist applicant

hybrid representation cannot stop the motion pursuant to SCRP 59(2) on all grounds arguments, amendments claims, and pleadings to be ruled upon properly according to findings of facts and conclusions of law in final order. Quoting Marler v. State citation (2010) (omitted)

It is so motion

By Robert G. J. pro litigant

CERTIFICATE
OVER
CERTIFICATE

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2013 DEC 23 AM 11:40
CLERK OF COURT
JANIE COOPER
FLORENCE, ALABAMA

10 OF 10

THE STATE OF SOUTH CAROLINA & IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE

Robert Graham, Jr.
(120039)
applicant.

2013-cv-21-1195

AFFIDAVIT OF
SERVICE BY
MAIL

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CLERK OF COURT
COUNTY OF FLORENCE, SOUTH CAROLINA

STATE OF SOUTH CAROLINA
Respondent.

pgs 1-10

SEE AFFIDAVIT 1 OF 2
2013

1. I am the Perry Co. mail-room personnel
in the above-beneath-action.

2. on this 20th day of 2013,
proper service by mail was served upon beneath
parties for a SCRAP 59(e) motion to alter
or amend judgment, findings of facts, and
conclusions of law pursuant to provision
State, 310 S.C. 254, 423 S.E.2d. 257 (1992)

(1) Clerk Connie R. Sherman
180 W. Hwy 51 MSC-ERM
R-11 Florence SC.

Sworn before me
this 21st day of December 2013
Nancy C. Merchant

Notary Public For SC
EX 1-23-2023

(2) Hon William H. Seals Jr
Presiding Judge 12th Judicial
Circuit PO Box 143
Marion, SC 29571

SI D. J. F. L. H. 2